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Counsel for Entergy

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re:

CIRCUIT CITY STORES, INC. et al.,

Debtors.

Chapter 11

Case No. 08-3565-KRH

(Jointly Administered)

Re: Docket ID Nos. 8 and 117

**EMERGENCY MOTION TO EXPEDITE HEARING OR SET STATUS CONFERENCE**

Entergy Mississippi, Inc. ("EMI"), Entergy Gulf States Louisiana, L.L.C. ("EGSL"), Entergy Louisiana, LLC ("ELL"), Entergy Arkansas, Inc. ("EAI") and Entergy Texas, Inc. ("ETI", and together with EMI, EGSL, ELL and EAI, "Entergy"), file the Emergency Motion to Expedite Hearing or Set Status Conference (this "Motion") on the Emergency Motion of Entergy for Reconsideration and Vacatur of Order Under Bankruptcy

Code Sections 105(a), 363, and 366 and Bankruptcy Rule 6003 (I) Approving Debtors' Adequate Assurance Of Payment, (II) Establishing Procedures For Resolving Requests By Utility Companies For Additional Assurance Of Payment, (III) Scheduling A Hearing With Respect To Contested Adequate Assurance Of Payment Requests, And (IV) Authorizing Debtors To Pay Claims Of A Third Party Vendor (the "Motion to Vacate").<sup>1</sup> In support of this Motion, Entergy respectfully represents as follows:

1. On November 10, 2008, the above-captioned Debtors filed for protection under Chapter 11 of the Bankruptcy Code. On November 12, 2008, the Court entered the Utility Order granting the Utility Motion. The Utility Order was entered on an ex parte basis and without reasonable notice to Entergy. As stated in the Motion to Vacate, the Utility Order improperly enjoins Entergy from exercising its rights under section 366 of the Bankruptcy Code.

2. The Utility Order impermissibly extends the 30-day period provided by section 366 and thus, enjoins Entergy after the statutory 30-day period provided by section 366 expires. As such, the Utility Order vitiates Entergy's right to receive satisfactory assurance of payment within the first 30 days of this case. In light of this impermissible extension and injunction, and because the Utility Order was entered on an ex parte basis, Entergy requests that the Court expedite the hearing of the Motion to Vacate or set a status conference with respect to this Motion prior to the Determination Hearing currently set for December 5, 2008.

3. Failure to afford Entergy an opportunity to be heard on an expedited basis prior to the Determination Hearing will moot its procedural objections to the Utility Order and thereby deny Entergy its right to press all of its objections to the Utility Order before this Court. As orders such as the Utility Order are repeatedly entered on an ex parte basis without reasonable

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<sup>1</sup> All capitalized terms shall have the meaning set forth in the Motion to Vacate.

or any notice to Entergy, expedited treatment of the Motion to Vacate is the only means by which Entergy will be afforded an opportunity to address its concerns and objections to such orders before this Court.

**WHEREFORE**, Entergy respectfully requests that this Court enter an order (i) setting a hearing prior to the Determination Hearing, currently set for December 5, 2008, to hear the Motion to Vacate or, in the alternative, set a status conference on this Motion, and (ii) grant such other relief as is just and proper.

Dated: November 20, 2008

SPOTTS FAIN PC

/s/ Jennifer J. West  
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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re:

CIRCUIT CITY STORES, INC. et al.,  
Debtors.

Chapter 11

Case No. 08-35653-KRH

(Jointly Administered)

Re: Docket ID Nos. 18 and 117

**ORDER**

Upon consideration of the Emergency Motion to Expedite Hearing or Set Status Conference (the “Motion to Expedite”)<sup>1</sup> on the Emergency Motion of Entergy for Reconsideration and Vacatur of Order Under Bankruptcy Code Sections 105(a), 363, and 366 (I) Approving Debtors’ Adequate Assurance Of Payment, (II) Establishing Procedures For Resolving Requests By Utility Companies For Additional Assurance Of Payment, (III) Scheduling A Hearing With Respect To Contested Adequate Assurance Of Payment Requests, And (IV) Authorizing Debtors To Pay Claims Of A Third Party Vendor (the “Motion to Vacate”), and for good cause shown, it is hereby:

ORDERED, that the Motion to Expedite is GRANTED;

ORDERED, that a hearing is scheduled on the Motion to Vacate for \_\_\_\_\_ of \_\_\_\_\_, 2008 at \_\_\_\_\_ am/pm with any objections to the Motion to Vacate due on or before \_\_\_\_\_ of \_\_\_\_\_, 2008 at \_\_\_\_\_ am/pm;

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<sup>1</sup> All capitalized terms shall have the meaning set forth in the Motion to Expedite.

ORDERED, that a hearing is scheduled on the Motion to Expedite for \_\_\_\_ of \_\_\_\_\_, 2008 at \_\_\_\_\_ am/pm with any objections to the Motion to Expedite due on or before \_\_\_\_ of \_\_\_\_\_, 2008 at \_\_\_\_\_ am/pm.

Dated: \_\_\_\_\_, 2008

\_\_\_\_\_  
United States Bankruptcy Judge

WE ASK FOR THIS:

/s/  
\_\_\_\_\_  
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#### **LBR 9022-1 CERTIFICATION OF SERVICE**

I, Jennifer J. West, hereby certify that on the \_\_\_\_ day of November, 2008, pursuant to Local Rule 9022-1, the foregoing Order was served upon the parties on the attached service list, constituting all necessary parties, in the manner indicated.

SERVICE LIST  
Circuit City Stores, Inc. et al  
Case No. 08-35653-KRH

*Via E-Mail or ECF:*

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*Via First Class Mail:*

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